

WO

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Gary D Carter, et al.,

No. CV-24-01597-PHX-MTL

Plaintiffs,

ORDER

V.

Treasure Island LV LLC, et al.,

Defendants.

Plaintiffs bring this action against Defendant Treasure Island LV LLC for injuries and damages suffered while they were gambling in Las Vegas, Nevada. Defendant moves to transfer venue to the United States District Court for the District of Nevada. The motion is fully briefed and neither party requested oral argument. The motion will be granted.

Section 1404(a) of Title 28 of the United States Code provides that, “[f]or the convenience of parties and witnesses, in the interest of justice, a district court may transfer any civil action to any other district or division where it might have been brought.” *Id.* District courts have “discretion to adjudicate motions for transfer according to an individualized, case-by-case consideration of convenience and fairness.” *Jones v. GNC Franchising, Inc.*, 211 F.3d 495, 498 (9th Cir. 2000) (citing *Stewart Org. v. Ricoh Corp.*, 487 U.S. 22, 29 (1988)) (internal quotation marks removed). When analyzing whether transfer is appropriate, the Court performs a two-step analysis: first, it determines “whether the case could have been brought in the forum to which the moving party seeks to transfer the case,” and second, “whether the proposed transferee district is a more suitable choice

1 of venue based upon the convenience of the parties and witnesses and the interests of
 2 justice.” *R. Prasad Indus. v. Flat Irons Env’t Sols. Corp.*, No. 12-CV-08261-PCT-JAT,
 3 2017 WL 4409463, at *2-3 (D. Ariz. Oct. 4, 2017) (internal quotation marks and citations
 4 removed).

5 This action could have been brought in Nevada. Defendant Treasure Island LV LLC
 6 is domiciled in Nevada, and it operates its gaming resort there. Plaintiffs claim injury from
 7 events that took place on the resort property.

8 The Court also finds that Nevada is the more suitable forum for the adjudication of
 9 this action, based on the convenience of parties and witnesses as well as the interests of
 10 justice. The only real connection that this lawsuit has with Arizona is that Plaintiffs are
 11 residents here. Besides that, all the participants in the event are likely domiciled in Nevada.
 12 It is very likely that witnesses are either Nevada residents or residents of other states
 13 visiting the resort. As Defendant points out in its reply brief, “[t]he percipient witnesses to
 14 the events (i.e. the hotel staff, security, surveillance, police, paramedics, and any other
 15 witnesses) are located in Nevada.” (Doc. 8 at 3)

16 Plaintiffs’ theory that general personal jurisdiction exists in Arizona based on
 17 Defendant’s online marketing activity that is accessible in Arizona is not recognized as
 18 valid. *See Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 801 (9th Cir. 2004)
 19 (“an internet website accessible by anyone capable of using the internet, including people
 20 living in California” does not constitute “continuous and systematic” contacts warranting
 21 general personal jurisdiction). Plaintiffs’ argument that venue is appropriate here because
 22 their physicians reside in Arizona is not credible either. Defendant’s argument that these
 23 medical providers can participate in the litigation remotely is well-taken. Their residency
 24 is not enough to overcome the facts that most other witnesses are in Nevada, that Defendant
 25 resides in Nevada and operates its business there, and the events giving rise to this lawsuit
 26 occurred in Nevada. Treating physicians often reside in a state other than the one where
 27 litigation is filed.

28

1 **IT IS THEREFORE ORDERED** that Defendant's Motion for Change of Venue
2 (Doc. 6) is **GRANTED**.

3 **IT IS FURTHER ORDERED** that the Clerk of Court must transfer this action to
4 the United States District Court for the District of Nevada and administratively close this
5 case.

6 Dated this 3rd day of September 2024.

7
8 Michael T. Liburdi
9
10 Michael T. Liburdi
11 United States District Judge